

Senate Bill Number 34.

AN ACT MAKING AN APPROPRIATION TO TEST THE VALIDITY OF AN ACT OF THE NATIONAL COUNCIL OF THE CHEROKEE NATION, ENTITLED "AN ACT MAKING DISPOSITION OF ESTRAY PROPERTY," APPROVED BY THE PRESIDENT OF THE UNITED STATES DECEMBER 20th., 1900.

====O=O=====

Whereas, an act entitled "An Act making disposition of Estray property" was passed by the National Council of the Cherokee Nation, and approved by the President of the United States on December 20th., 1900, providing for the appointment of Estray Agents in the several districts of the Cherokee Nation, whose duties were to take charge of all estray property, and to advertise and sell the same as provided in said act; and

Whereas, the validity of said act has been questioned in the United States Courts for the Northern District and the Western District of the Indian Territory, some of the Courts holding said act to be valid while others holding that it is not enforceable in the United States Courts,; and

Whereas, the Estray Agents appointed under said act have no means provided them for their defense in suits instituted against them, or the persons to whom they sell estray property; Therefore,

Be it enacted by the National Council, that there be and is hereby appropriated the sum of two hundred dollars (\$200) for the purpose of employing an attorney, or attorneys, to test the validity of said act when the same has been called in question before any of the courts in the Northern or Western districts of the Indian Territory, either in suits instituted against the Estray Agents themselves, appointed under the provisions of said act, or the persons to whom the estray property may have been sold by said Estray Agents, it being understood that the aforesaid sum of two hundred dol-

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lars (\$200.00) is to include the pay for said attorney, or attorneys together with all court costs incident to any suit brought to test the validity of said act; and said attorney, or attorneys, shall be required to appeal said case to the court of last resort, in case either the United States Court or any Commissioner's Court in the Northern or Western District of the Indian Territory shall hold said law to be invalid or not enforceable in the United States Court; and in the event said suit is appealed by the opposite party, it shall be the duty of the said attorney, or attorneys, to represent the Estray Agent or the party to whom said estray property shall have been sold upon appeal; and when any case is reported to the Principal Chief of the Cherokee Nation, by any one of the Estray Agents appointed under the provisions of said act, that a suit has been instituted against him or any persons to whom he has sold estray property, and that said suit involves the validity or enforcement of said act of the National Council of the Cherokee Nation, then it shall be the duty of the Principal Chief to at once notify the said attorney, or attorneys, to represent the Estray Agent or the person to whom said property had been sold; and the Principal Chief is authorized to draw a warrant for one-half of the said sum of two hundred dollars (\$200.00) in favor of the said attorney, or attorneys, and when said suit is finally terminated the remaining one-half shall be due and payable.

Passed the Senate December 4, 1902.

*E. N. Washburn*  
Clerk of the Senate.

*W. D. F. C.*  
President of the Senate.

Concurred in by the Council December 5, 1902.

*C. S. Shelton*  
Clerk of the Council.

*McKay Smith*  
Speaker of the Council.

APPROVED: Dec - 6 - 1902

*T. W. Buffington*

Principal Chief of the Cherokee Nation.

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..EXECUTIVE OFFICE..  
CHEROKEE NATION.

TAHLEQUAH, I. T.,

*Dec 6*

190*2*

I, *T. M. Buffington*, Principal Chief of the Cherokee Nation,

do hereby certify that the foregoing is an act of the National Council of said Nation passed at its *Regular* session, 190*2*, and I do hereby submit the same for the approval of the President of United States under the provisions of the Act of Congress approved March 3, 1901, (31 Stat. 1058), entitled, "An Act Making Appropriations for the Current and Contingent Expenses of the Indian Department and for Fulfilling Treaty Stipulations with Various Indian Tribes for the Fiscal Year Ending June 30, 1902, and for Other Purposes."

IN WITNESS WHEREOF, I have hereunto signed my name as Principal Chief of the Cherokee Nation on this the *6<sup>th</sup>* day of *December*, 190*2*, and caused the great seal of the Nation to be affixed.

*T. M. Buffington*  
Principal Chief Cherokee Nation.

ATTEST:

*J. T. Parker*  
Executive Secretary.

WHITE HOUSE,

[SEAL]

Washington, *January 26<sup>th</sup>*, 190*3*.

APPROVED:

*T. Roosevelt*



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Whereas, the validity of said act has been questioned in the United States Courts for the Northern District and the Western District of the Indian Territory, some of the Courts holding said act to be valid while others holding that it is not enforceable in the United States Courts,; and

Whereas, the Estray Agents appointed under said act have no means provided them for their defense in suits instituted against them, or the persons to whom they sell estray property; Therefore,

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Be it enacted by the National Council, that there be and is hereby appropriated the sum of two hundred dollars (\$200) for the purpose of employing an attorney, or attorneys, to test the validity of said act when the same has been called in question before any of the courts in the Northern or Western districts of the Indian Territory, either in suits instituted against the Estray Agents themselves, appointed under the provisions of said act, or the persons to whom the estray property may have been sold by said Estray Agents, it being understood that the aforesaid sum of two hundred dol-

lars (\$200.00) is to include the pay for said attorney, or attorneys together with all court costs incident to any suit brought to test the validity of said act; and said attorney, or attorneys, shall be required to appeal said case to the court of last resort, in case either the United States Court or any Commissioner's Court in the Northern or Western District of the Indian Territory shall hold said law to be invalid or not enforceable in the United States Court; and in the event said suit is appealed by the opposite party, it shall be the duty of the said attorney, or attorneys, to represent the Estray Agent or the party to whom said estray property shall have been sold upon appeal; and when any case is reported to the Principal Chief of the Cherokee Nation, by any one of the Estray Agents appointed under the provisions of said act, that a suit has been instituted against him or any persons to whom he has sold estray property, and that said suit involves the validity or enforcement of said act of the National Council of the Cherokee Nation, then it shall be the duty of the Principal Chief to at once notify the said attorney, or attorneys, to represent the Estray Agent or the person to whom said property had been sold; and the Principal Chief is authorized to draw a warrant for one-half of the said sum of two hundred dollars (\$200.00) in favor of the said attorney, or attorneys, and when said suit is finally terminated the remaining one-half shall be due and payable.

Passed the Senate December 4, 1902.

*Edw. Washburn*  
Clerk of the Senate.

*Wm. F. L.*  
President of the Senate.

Concurred in by the Council December 5, 1902.

*C. S. Sheeton*  
Clerk of the Council.

*McLay Smith*  
Speaker of the Council.

APPROVED: Dec - 6 - 1902

*T. W. Buffington*  
Principal Chief of the Cherokee Nation.

49-50

..EXECUTIVE OFFICE..  
CHEROKEE NATION.

TAHLEQUAH, I. T., Dec 6 1902

I, J. M. Buffington, Principal Chief of the Cherokee Nation,

do hereby certify that the foregoing is an act of the National Council of said Nation passed at its Regular session, 1902, and I do hereby submit the same for the approval of the President of United States under the provisions of the Act of Congress approved March 3, 1901, (31 Stat. 1058), entitled, "An Act Making Appropriations for the Current and Contingent Expenses of the Indian Department and for Fulfilling Treaty Stipulations with Various Indian Tribes for the Fiscal Year Ending June 30, 1902, and for Other Purposes."

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J. M. Buffington  
Principal Chief Cherokee Nation.

ATTEST:

J. T. Parker  
Executive Secretary.

WHITE HOUSE,

[SEAL]

Washington, January 26<sup>th</sup>, 1903.

APPROVED:

T. Roosevelt

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Henry Jan. 1967

46-9-58-1  
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No. 5743-12  
FEB 5 1903  
Office of U. S. Indian Affairs  
for Indian Territory

Testimony  
Property  
2

Division  
JAN 22 1903  
No. 616

3967 Indian Office  
Incl. No. 3 1903

6983

No. 27523  
RECEIVED  
DEC 10 1902  
Office of U. S. Indian Affairs  
for Indian Territory

Twelfth